

## **Terms of Reference – Vulnerable Persons Living with a Mental Disability Task Force**

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### **Background**

The Vulnerable Persons Living with a Mental Disability Act (VPA) is a Manitoba law that provides authority and determines eligibility for services to adults with intellectual disabilities in the province. The law also:

- Creates the role of Vulnerable Persons Commissioner
- Outlines the role of supported decision making
- Establishes the use of substitute decision makers (SDMs), who are legally empowered to make decisions on behalf of vulnerable persons
- Set out requirements for individual planning for vulnerable people under the act
- Outlines the process for investigating allegations of abuse of a vulnerable person

The VPA lists five principles:

- Vulnerable persons are presumed to have the capacity to make decisions affecting themselves, unless demonstrated otherwise;
- Vulnerable persons should be encouraged to make their own decisions;
- The vulnerable person's support network should be encouraged to assist the vulnerable person in making decisions so as to enhance his or her independence and self-determination;
- Any assistance with decision making that is provided to a vulnerable person should be provided in a manner which respects the privacy and dignity of the person and should be the least restrictive and least intrusive form of assistance that is appropriate in the circumstances;
- Substitute decision making should be invoked only as a last resort when a vulnerable person needs decisions to be made and is unable to make these decisions by himself or herself or with the involvement of members of his or her support network;

The Act was proclaimed in 1996 and based on best practices of the time. In contrast to previous laws, which removed all legal decision-making power from individuals when they were deemed to not have capacity, the VPA approaches decision-making for adults with intellectual disabilities on a continuum. Individuals are assumed to have capacity unless demonstrated otherwise. The VPA also allows situations where people are deemed capable of making decisions in some areas but not in others. This allows a gradual, increasing degree of support in multiple areas, beginning with assistance from a group of trusted individuals in making decisions (supported decision making), up to the appointment of an SDM with legal authority.

In March 2019, community advocates from the disability sector brought together a group of stakeholders for a “think tank” session considering “potential solutions to the shortcomings of the VPA and its administration.” From this session, Community Living

Manitoba and the Public Interest Law Centre produced a report with recommended changes to the VPA in August 2019.

In order to respond to the concerns raised by community advocates, the Honourable Heather Stefanson, Minister of Families, has created a Task Force to provide recommendations on the way services for adults with intellectual disabilities are provided in Manitoba. This Terms of Reference establishes the scope and mandate of the Task Force.

### **Scope and Deliverables**

The Task Force is a time-limited project that will provide recommendations on key elements of the supports and services available to adults with intellectual disabilities.

#### *In Scope*

The Task Force will be empowered to develop:

- A strategy to encourage supported decision making as an alternative to substitute decision-making
- A two year action plan to reduce reliance on SDMs

The Task Force will also be empowered to create sub-groups to examine the following specific issues and make recommendations on:

- The community engagement and education role of the Office of the Vulnerable Persons Commissioner
- The role of Community Services Workers
- Issues around the legal definition of abuse, as well as the process of investigating, verifying, and the penalty for substantiated cases of abuse
- The role of the Adult Abuse Registry
- Issues around supported decision making
- Individual planning issues
- The role of the Public Guardian and Trustee

#### *Out of Scope*

The Task Force is not empowered to explore the following issues:

- Comprehensive legislative review of the VPA
- Changing the role of the Vulnerable Persons Commissioner
- The level of funding for supports to adults with intellectual disabilities
- Eligibility criteria for provincial disability services
- Services on reserve

#### *Deliverables*

By March 31, 2021, the Task Force will provide the Minister with:

- Recommendations for improving services and supports for adults with intellectual disabilities

- An action plan for implementing the recommendations

### **Consultations**

The Task Force has been created to bring together community experts to share their perspective and experience on key elements of service provision. The Task Force is not expected to engage in wide-scale consultations, or reproduce consultations that have already occurred.

However, the Task Force may find it necessary to engage in targeted consultations on specific questions, and may organize meetings for that purpose.

No additional budget will be provided for consultations, although the Task Force may rely on department resources for this purpose.

### **Membership**

The Task Force will include the following members:

- **Dale Kendel**, Former Executive Director of Community Living Manitoba (Chair)
- **Margo Powell**, Executive Director, Abilities Manitoba
- **Scott Smith**, Director, Pulford Community Living Services
- **Irene Hamilton**, Former Provincial Ombudsman
- **Susan Boulter**, Member of the Vulnerable Persons Hearing Panel Roster
- **Heidi Wurmman**, ADM, Corporate Services, Department of Families
- **Janice Morley-Lecomte**, MLA for Seine River
- Honorary member: **Jessica Croy** (self advocate), Special Advisor to the Minister on Disability Issues

Dale Kendel will serve as Chair of the Vulnerable Persons Living with a Mental Disability Task Force. He will be responsible for:

- Acting in an impartial and non-partisan manner
- Guiding meetings according to the agenda and time available
- Encouraging the balanced analysis of all relevant issues and questions for a variety of perspectives
- Ensuring that all members participate in discussions and decision-making
- Determining when consensus is reached
- Assessing real or perceived conflict of interest of any members, and recording in writing any declared conflict of interest
- Verifying that minutes of the meetings are accurately recorded
- Monitoring the work of the Task Force with a view to keeping it on track to meet timelines
- Submitting a final report to the Minister on behalf of the Task Force

Task Force members will be responsible for:

- Participating in meetings and proposing agenda items
- Carrying out tasks agreed upon at meetings

- Appreciating and advancing, in a balanced and fair way, the views and interests pertaining to persons with intellectual disabilities, the sectors affected by the VPA, as well as other relevant stakeholders

### **Consensus**

The Task Force will attempt to seek consensus among its members on the recommendations made to the Minister. Consensus means substantial agreement of members, without persistent opposition by a process taking into account the views of all members.

### **Timeline / Meetings**

The Task Force will meet on a monthly basis from September 2020 to April 2021. Additional meetings may be scheduled if needed.

Sub-group meetings may occur as needed. The Chair will be responsible for ensuring that sub-group work respects the reporting deadline for the Task Force.

Final report to be delivered to the Minister by **March 31, 2021**.

Upon receipt of the Task Force recommendations, the Minister will review and respond by **Fall 2021**.

### **Resources / Remuneration**

The Chair will facilitate meetings. Government staff will provide impartial administration, research, writing and coordination support, including assistance in preparing the final report to the Minister.

Participation and attendance at meetings are important to ensure the steady progress and success of the Task Force. Meetings will be scheduled in advance to allow for proper planning and attendance of members. It is anticipated that work by Task Force members will take place between meetings (e.g., review and approval of documents by email).

Reimbursement **for up to 10 Task Force meetings**, each lasting less than three hours will be as follows:

- The chairperson will be remunerated \$256.00 per meeting, for a maximum of \$2,560.00
- Members will be remunerated \$146.00 per meeting, for a maximum of \$1,460.00
- Members for whom participation is part of their regular work as members of the legislative assembly or government employees will not be eligible for remuneration

Parking and other transportation costs will be covered, subject to the provision of receipts and in line with the Government of Manitoba General Manual of Administration (GMA).

Should the Task Force decide to establish a subcommittee to support its work, it will need to ensure subcommittee participation is voluntary and free from any financial compensation or reduce the number of Task Force meetings held in order to compensate subcommittee members accordingly.

All meetings will be accessible to participants experiencing barriers. Members will be required to identify to the Chair any specific accessibility supports that will be required for full participation in meetings.